IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5864 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GOALBHAI MAFATBHAI RABARI

Versus

DISTRICT SUPPLY OFFICER

Appearance:

MR MUKESH R SHAH for Petitioner.

MR PREMAL JOSHI, AGD.for Respondents.

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 05/07/2002

ORAL JUDGEMENT

1 Rule. Mr.Premal Joshi, learned Assistant Government Pleader appears and waives service of rule. At the request of the learned Advocates appearing for the respective parties, the matter is taken up for final hearing today.

2 By way of this petition, the petitioner seeks to challenge the order dated 14/6/2002 passed by the revisional authority rejecting the application for stay of orders of lower authorities whereunder the petitioner's licence and authorisation were cancelled and confirmed in appeal.

3 Mr.M.R.Shah, learned Advocate appearing on behalf of the petitioner submits that the revisional authority has passed the impugned order without issuing any reason whatsoever and hence the order is bad in law and requires to be quashed and set aside. Mr.M.R.Shah has in support of his submission relied upon two decisions of this Court wherein this Court has held that when no reason is assigned by the authority for not granting interim relief as prayed for, it would amount to acting in a arbitrary manner. As against this, Mr.Premal Joshi, learned AGP appearing on behalf of the respondent has placed reliance upon an order dated 1/5/2002, passed by this Court in SCA No,.4618 of 2002, whereunder in a similar circumstances, this Court directed the revisional authority to dispose off the main revision application within the period directed by the Court. It was submitted by Mr.Joshi that similar direction could be also given in the present case.

4 In light of the fact that the District Collector, Kheda had granted interim relief vide his order dated 11/12/2001, it was necessary for the revisional authority to take into all the facts and circumstances on record and pass reasoned speaking order before rejecting the application for stay filed by the petitioner. As the impugned order does not give any reason the same is held to be arbitrary and bad in law and is hereby quashed and set aside. The Revisional Authority shall pass a reasoned order on the stay application filed by the petitioner within a period of one week from the date of the receipt of the certified copy of this order. It will also be open to the Revisional Authority to take up the matter for final hearing and dispose off the same.

5 In light of the fact that the petitioner was enjoying interim relief by virtue of the order of the District Collector till point of time the appeal came to be decided, the petitioner shall be protected till the revisional authority hears and decides the stay application or the main revision application, whichever is earlier. The petition stands allowed accordingly. Rule made absolute. Direct service permitted.

Sd/-

(D.A.Mehta,J)

m.m.bhatt